

§ 1943.25

located unless otherwise approved by the State Director.

(h) *Subdivision of large tracts of farmland, other than FmHA or its successor agency under Public Law 103-354 inventory farms, into family farm units.* County Supervisors should investigate any large tract that is offered for sale to determine the feasibility of making FO loans to enable several applicants to acquire the tract. In considering the feasibility of a tract for subdivision into family farms, the following are some of the factors that must be considered:

- (1) Productivity of the land and its suitability for operation as a family farm;
- (2) Cost of the land and improvements;
- (3) Accessibility to roads, markets, schools, right-of-way, easements, and other services.
- (4) Disposition or omission of any part of the tract that is not suitable; and
- (5) The number of eligible applicants in the area.

(i) *Liens junior to the FmHA or its successor agency under Public Law 103-354 lien.* A loan will not be approved if a lien junior to the FmHA or its successor agency under Public Law 103-354 lien is likely to be taken simultaneously with or immediately subsequent to the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the FO loan, such as for a portion of the purchase price of the farm or money borrowed from others for payments on debts against the farm, unless the total debt against the security would be within its market value.

(j) *Graduation of FO borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, comparable to those for loans for similar purposes and periods of time prevailing in the area, the borrower will, upon request, apply for and accept such financing. A borrower paying a rate of interest less than the mar-

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ket rate will be expected to pay the current rate when able to do so.

[53 FR 35692, Sept. 15, 1988, as amended at 57 FR 18678, Apr. 30, 1992; 58 FR 26681, May 5, 1993; 59 FR 25801, May 18, 1994; 62 FR 9356, Mar. 3, 1997]

§ 1943.25 Options, planning, and appraisals.

(a) *Optioning land.* an applicant is responsible for obtaining options on real property bought. Form FmHA or its successor agency under Public Law 103-354 440-34, "Option to Purchase Real Property," should be used if possible. Other forms may be used if acceptable to all parties concerned and to FmHA or its successor agency under Public Law 103-354. When an FmHA or its successor agency under Public Law 103-354 form is not used, a provision should be included which makes the option contingent upon the FmHA or its successor agency under Public Law 103-354 making a loan to the buyer.

(1) The County Supervisor should advise the applicant to have an understanding with the seller on such items as:

- (i) Land description and number of acres;
- (ii) Buildings and fixtures included in the transaction. The applicant should determine the condition of property attached to the land and the working condition of any fixtures with movable parts;
- (iii) Minerals and the effect any mineral reservation has on the land value and operating it as a farm;
- (iv) Access to the land or any part of it;
- (v) The party responsible for taxes and insurance; and
- (vi) The party who will receive the income from the land during the crop year of the transaction.

(2) The applicant should decide if the applicant wants the option recorded and is responsible for paying any recording fees.

(b) Farm business plans will be completed as provided in subpart B of part 1924.

(c) *Appraisals.* (1) Except as provided in paragraph (c)(2) of this section, real estate appraisals will be completed on forms in accordance with § 761.7 of this title, and in the case of an appraisal of

residential real estate, the appropriate Agency form (available in each Agency State Office) or other format that contains the same information, by a designated FmHA or its successor agency under Public Law 103-354 real property appraiser, or FmHA or its successor agency under Public Law 103-354 State-certified general contract real property appraiser. Appraisals are necessary when real estate is taken as primary security, as defined in §1943.4 of this subpart, and when loans are serviced in accordance with subpart S of part 1951 of this chapter. Real estate appraisals are not required when real estate is taken as additional security, as defined in §1943.4 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate.

(2) Other real estate appraisals completed by other State-certified general appraisers may be used providing such appraisals meet the ethics, competency, departure provisions, etc., and sections I and II of the Uniform Standards of Professional Appraisal Practices, and contain a mineral rights appraisal as set out in paragraph (c)(4) of this section. Prior to acceptance, the appraisal must have an acceptable desk review (technical) completed by an FmHA or its successor agency under Public Law 103-354 designated review appraiser.

(3) Real estate appraisals will be completed as provided in §761.7 of this title. The rights to mining products, gravel, oil, gas, coal, or other minerals will be considered a portion of the security for Farmer Programs loans and will be specifically included as a part of the appraised value of the real estate securing the loans using Form FmHA or its successor agency under Public Law 103-354 1922-11, "Appraisal for Mineral Rights" or other format that contains the same information.

(4) The value of stock required to be purchased by Federal Land Bank (FLB) borrowers may be added to the recommended market value of the real estate, provided:

- (i) An assignment is obtained on the stock, or
- (ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan, or

(B) The stock refund check is made payable to the borrower and FmHA or its successor agency under Public Law 103-354, or

(C) The stock refund check is made payable to the borrower and mailed to the County Supervisor.

(iii) The total of the stock value and the recommended market value of real estate is indicated in the comments section of the appraisal report.

(5) In the case of nonreal estate security the following items apply:

(i) Form FmHA or its successor agency under Public Law 103-354 440-21, "Appraisal of Chattel Property," will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) Its current market value, or if appropriate, the current cash value will be determined.

[53 FR 35692, Sept. 15, 1988, as amended at 54 FR 47959, Nov. 20, 1989; 58 FR 26681, May 5, 1993; 59 FR 16773, Apr. 8, 1994; 62 FR 9356, Mar. 3, 1997; 64 FR 62568, Nov. 17, 1999]

§ 1943.26 Planning and performing farm development.

The development work will be planned and completed in accordance with subpart A of part 1924 of this chapter. The provisions of subpart E of part 1901 of this chapter will be met in connection with FO loans involving recreational enterprises and the construction of buildings.

§ 1943.27 Relationship with other lenders.

An applicant will be requested to obtain credit from another source when information indicates such credit is available. When another lender will not make a loan for the total needs of the applicant but is willing to participate with an FO loan, consideration will be given to a participation loan. FmHA or its successor agency under Public Law 103-354 employees may not guarantee, personally or for FmHA or its successor agency under Public Law 103-354, repayment of advances made from other credit sources. However, lenders